the work of keeping the instrumentalities used by the carrier in the conduct of interstate commerce (its cars, engines, appliances, machinery, roadbed, track, and other equipment,) in a proper state of repair, while thus used, is so closely related to such commerce as to be in practice and in legal contemplation a part of it; that, whatever work is a part of the interstate commerce in which the carrier is engaged is interstate commerce under the statute, and the work of repairing and maintaining the instrumentalities engaged in interstate commerce is such work; that the fact that the instrumentality may be used in both interstate and intrastate commerce does not prevent the employment of those engaged in its repair, or in keeping it in suitable condition for use, from being an employment in interstate commerce. *Pedersen* v. *Del. etc. R. Co.*, 229 U. S. 146; *Zikos* v. *Oregon R. & Nav. Co.*, 179 Fed. 893; *Eng.* v. *So. Pac. Co.*, 210 Fed. 92; *Montgomery* v. *So. Pac. Co.*, 64 Or. 597; *Holmberg* v. *Lake Shore, etc. Ry. Co.*, 188 Mich. 605. It was on the basis of such reasoning as the above that the court in the instant case came to the conclusion that, being an adjunct to interstate commerce, a means effectuating the passage thereof, the plaintiff was engaged in "interstate commerce" within the meaning of the EMPLOYERS' LIABILITY ACT. See extended notes in 47 L. R. A. (N. S.) 52, *et seq.* and L. R. A. 1915 C, 60, *et seq.*

CONSTITUTIONAL LAW—"BONE DRY" ACT.—Plaintiff was arrested and held in custody solely because charged with having in his possession a bottle of whiskey, for his own use and benefit, within a prohibition district in the state of Idaho, in violation of an Idaho statute (Session Laws of Idaho, 1915, ch. 11), providing that no person shall have in his possession in a prohibition district intoxicating liquors or alcohol, except for sacramental, scientific, or mechanical purposes, or for compounding or preparing medicine. Plaintiff sued out a writ of *habeas corpus,* which was quashed in the State Supreme Court. Plaintiff then brought this appeal. *Held,* that the judgment of the court below should be affirmed. *Crane* v. *Campbell,* 38 Sup. Ct. Rep. 98.

It was contended by the plaintiff in the instant case that the Idaho statute, in so far as it undertook to render criminal the mere possession of whiskey for personal use, conflicted with the "privileges and immunities" and "due process of law" clauses of the 14th Amendment to the U. S. Constitution. The court held that, since it had been decided that a State has the power absolutely to prohibit the manufacture, gift, purchase, sale, or transportation of intoxicating liquors within its borders, and the power to adopt the measures reasonably appropriate or needful to render the exercise of that power effectiv, it could not be said that, considering the notorious difficulties always attendant upon efforts to suppress the liquor traffic, the inhibition of the possession of liquor was so arbitrary and unreasonable, or so without proper relation to the legitimate legislative purpose, as to be an improper exercise of the police power of the state. *Bartemeyer* v. *Iowa,* 18 Wall. 129; *Beer Co.* v. *Mass.,* 97 U. S. 25; *Mugler* v. *Kansas,* 123 U. S. 623; *Crowley* v. *Christensen,* 137 U. S. 86; *Booth* v. *Illinois,* 184 U. S. 425; *New York ex rel.*

Silz v. *Hesterberg,* 211 U. S. 31; *Murphy* v. *California,* 225 U. S. 623. The step taken by the court in its decision in the instant case was to be anticipated, in view of the recent decisions interpreting the WEBB-KENYON ACT.

ESPIONAGE ACT—POST OFFICE—NON-MAILABLE MATTER—SEDITIOUS PUBLICATIONS.—On an appeal from an interlocutory order granting a temporary injunction commanding the defendant, postmaster of the city of New York, to transmit the plaintiff's publication, "The Masses", through the mails, *held,* that it could not be said that the defendant was not warranted in excluding the journal under the authority of the ESPIONAGE ACT OF JUNE 15, 1917. *Masses Pub. Co.* v. *Patten,* 246 Fed. 24 (Cir. Ct. App., Nov. 2, 1917).

This decision of the Circuit Court of Appeals has the effect of reversing the decision of the District Court, granting a preliminary injunction, 16 MICH. L. REV. 131. The court in the instant case held the act to be constitutional, a proper exercise of the police power of the government; that, by it, Congress authorized and directed the Postmaster General not to transmit certain matter by mail, and to determine whether a particular publication is non-mailable under the terms of the law, thus requiring him to use judgment and discretion in so determining, and making his decision conclusive before the courts, save where there appears to be a clear abuse of discretion; and that no such abuse of discretion appeared in the instant case. The Circuit Court expressly repudiated the decision of the District Court, to the effect that any action other than a *direct* advocacy of resistance to the existing law is not a violation of the ESPIONAGE ACT, holding that "if the natural and reasonable effect of what is said is to encourage resistance to a law, and the words are used in an endeavor to persuade resistance, it is immaterial that the duty to resist is not mentioned, or the interests of the persons addressed in resistance are not suggested".

EVIDENCE — COMPETENCY OF WITNESSES — CRIMINAL TRIALS IN FEDERAL COURTS.—Upon the trial of defendants in the United States District Court for the Eastern District of New York for conspiring to buy and receive certain checks and letters stolen from duly authorized depositories of United States mail matter, objection was made to the competency of a witness for the Government who had been jointly indicted with defendants. The objection was based on the ground that this witness had previously pleaded guilty to the crime of forgery in one of the New York state courts and had served a sentence therefor, and, by the common law as administered in New York at the time of the enactment of the Federal Judiciary Act, these facts would have rendered the witness incompetent. The objection was overruled and the witness allowed to testify. *Held,* this ruling was correct. *Rosen et al.* v. *United States* (1918), 38 Sup. Ct. 148.

In *United States* v. *Reid et al.,* 12 How. 361, a case which came up from a Federal court in Virginia and upon which appellants in the instant case rely, the defendant attempted to call as a witness one who had been jointly indicted with him for a murder committed on the high seas. The court, in rejecting the testimony, held that the rules of evidence in force in the respective states when the United States Judiciary Act was passed were to gov-